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Department of Finance and Administration
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Date: September 8, 2008

To: Assisted Care Living Facilities
Area Agencies on Aging and Disability
Tennessee Commission on Aging and Disability

FROM: Patti Killingsworth, Chief of Long Term Care

RE: Allowable Charges for Home and Community Based Waiver Enrollees
who are Temporarily Institutionalized in a Hospital or Nursing Facility

This memo is being sent to provide clarification regarding allowable charges that an Assisted Care Living Facility (ACLF) may bill on behalf of an HCBS Waiver enrollee residing in the ACLF, receiving Medicaid-reimbursed ACLF services, who admits as a patient to the hospital or to a nursing facility for a short-term institutional stay (not to exceed a total of 120 days).

ACLF covered services under the HCBS Waiver Program (i.e., personal care services, homemaker services and medication oversight) **may NOT be billed for HCBS Waiver enrollees while they are patients in a hospital or temporary residents of a nursing facility.** No HCBS Waiver service may be billed while a person is in an institutional setting, even for a short stay.

Please ensure that claims submitted for ACLF services are prorated accordingly. Once the enrollee has returned to the facility, billing may resume for the ACLF services that are covered under the HCBS Waiver Program.

Please make sure that all participating Assisted Care Living Facility providers (including those currently enrolled as SWW providers and those who enroll during the coming months) are informed of this billing requirement.

Room and board charges are allowable and may be billed to the enrollee in order to maintain the ACLF residence and avoid discharge. Room and board charges are permitted since the enrollee is, in actuality, occupying the room (clothing and furnishings), even though he/she may be physically absent from the facility.

As a reminder, the scope of the defined ACLF Services benefit that a qualified enrollee may access under the SWW does **not** include room and board. Federal regulations at CFR 42 Section 441.310(a)(2) prohibit States from covering room and board as a component of HCBS.

Examples of costs that are considered to be **room and board** which are **not covered** under the SWW include:

- Rent, mortgage payments, title insurance, mortgage insurance;
- Property and casualty insurance;
- Property taxes;
- Utilities, resident phone, cable TV, etc.;
- Building and/or grounds maintenance;
- Residents' "raw" food costs including individual special dietary needs (the cost of preparing, serving, and cleaning up after meals may be covered under the SWW);
- Household supplies and equipment necessary for the room and board of the individual; and
- Furnishings used by the individual (does not include office furnishings).

Federal Financial Participation (FFP) is provided under the SWW *only* for costs pertaining to actual "care," i.e., personal care services, homemaker services and medication oversight that is provided to the enrollee in the ACLF.

Examples of costs that are considered to be **covered** components of ACLF Services under the SWW include:

- Salaries of personal care support employees, homemaker employees, other support staff and supervisors who provide oversight;
- The cost of preparing, serving, and cleaning up after meals ("raw" food costs are excluded);
- FICA, staff health insurance costs or other benefits, worker's compensation, unemployment compensation (as apportioned to support and supervision).
- Staff travel;
- Resident travel (including vehicle depreciation);
- Administrative overhead costs of doing business, including: office supplies and furnishings, percentage of administrative staff salaries, office telephone, recruitment, audit fees, operating fees/permits/licenses, percentage of office space costs, data processing costs, legal fees;
- Staff liability insurance/agency liability insurance; and
- Staff training/development/education.

The current rate of reimbursement for **covered** ACLF Services under the SWW shall not exceed \$1,100 per month. Such rate *excludes* all costs pertaining to room and board.

A SWW Enrollee who qualifies to receive ACLF services and for whom such services are identified in an approved Plan of Care is obligated to use their own resources to pay the costs of room and board in the ACLF, or the costs may be supplemented from family or other outside resources up to the maximum allowable charges for room and board.

In setting a rate for room and board, the provider must calculate such rate based on documented costs for room and board specified in the list above. For SWW enrollees, such room and board charges may not exceed 80% of the Personal Needs Allowance (PNA) specified in the SWW application. The PNA is the amount of income exempt from Patient Liability calculations under the SWW (i.e., the amount of money a SWW enrollee is allowed to keep in order to meet community living expenses), and is currently 200% of the federal SSI benefit rate. For calendar year 2008, the PNA is \$1274. **For 2008, the maximum monthly room and board charges in an Assisted Living Care Facility for SWW enrollees cannot exceed 80% of \$1,274 or \$1,019.20 per month.** This limitation applies *only* to SWW enrollees, and not to other ACLF residents.

Questions regarding this memo should be directed to:

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